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37310-000188AUS  
PATENT CENTER 2800  
TECHNOLOGY CENTER 2800  
AUG 7 2003

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Bradley P. BARBER et al.

Conf: 8550

Serial No.: 09/781,820

Group: 2825

Filed: February 12, 2001

Examiner: R. Rocchegiani

For: METHOD OF FABRICATING A MEMBRANE WITH  
IMPROVED MECHANICAL INTEGRITY

**PETITION UNDER 37 C.F.R. § 1.181 TO WITHDRAW HOLDING OF ABANDONMENT**

Assistant Commissioner for Patents  
Washington, D.C. 20231

January 21, 2002

Dear Sir:

In response to the Notice of Abandonment received December 18, 2002 in connection with the subject application, Applicants hereby respectfully petition under the provisions of 37 C.F.R. 1.181 and M.P.E.P. §711.03(c) for decision to withdraw the holding of abandonment.

During a telephonic interview on December 11, 2002, Examiner Rocchegiani indicated that this application was abandoned in view of Applicant's failure to reply to an Office Action mailed June 3, 2002. During the months of June and July, the attorneys of record and correspondence address on record at the U.S.P.T.O was for the law firm of Brown & Michaels, PC.<sup>1</sup> However, as is evidenced by the attached Declaration, this Office Action was never received by the offices of the Brown & Michaels firm. The offices of the undersigned did not become aware of the Office Action until advised by Examiner Rocchegiani during the telephonic interview.

<sup>1</sup> A Revocation of Power of Attorney, Substitute Power of Attorney and Change in Correspondence Address was filed by Harness, Dickey & Pierce on August 14, 2002, and was accepted by the USPTO in a Notice mailed August 23, 2002.

That the Office Action dated June 3, 2002 was never received in the offices of Brown & Michaels is evidenced by the Declaration, dated January 13, 2003, of Michael F. Brown, a partner of Brown & Michaels, and attachments.

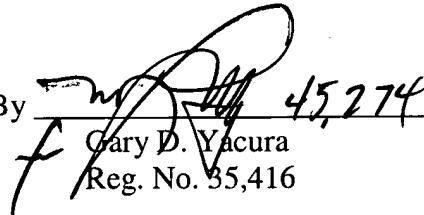
In view of the above-described facts, it is respectfully submitted that the abandonment of the present application was unavoidable and due solely to problems with the mailing of the June 3, 2002 Office Action. Accordingly, this petition is being timely filed for the purpose of petitioning withdrawal of the abandonment in view of the above-stated facts.

Since the above-mentioned Office Action was apparently never received in the offices of Brown & Michaels, as evidenced by the attached Declaration, it is believed that no petition fee is necessary in connection with this petition. In the event that the petition fee is deemed necessary by the United States Patent and Trademark Office, it is respectfully requested that the fee of \$130.00 as set forth in 35 U.S.C. §1.17(h)(1) be charged to Deposit Account No. 08-0750.

In the event that any matters remain at issue in the application, the Examiner is invited to contact the undersigned at (703) 668-8000 in the Northern Virginia area, for the purpose of a telephonic interview.

Respectfully submitted,

HARNESS, DICKEY AND PIERCE P.L.C.

By   
Gary D. Yacura  
Reg. No. 35,416

P.O. Box 8910  
Reston, VA 20195

GDY/MJL:kmh

Attachments: **Declaration with Exhibits I & II**



PATENT  
37310-000188/US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Bradley P. BARBER et al. Conf: 8550  
Serial No.: 09/781,820 Group: 2825  
Filed: February 12, 2001 Examiner: R. Rocchegiani  
For: METHOD OF FABRICATING A MEMBRANE WITH  
IMPROVED MECHANICAL INTEGRITY

DECLARATION

Assistant Commissioner for Patents  
Washington, D.C. 20231

Dear Sir:

I, Michael F. Brown, hereby declare and state that:

1. I am a shareholder and Chief Operating Officer at the law firm of Brown & Michaels, PC;
2. Brown & Michaels previously had Power of Attorney and formerly handled prosecution of the above-identified application, Serial No. 09/781,820 (Brown & Michaels Attorney Docket No. L-122600).
3. On January 7, 2002, Brown & Michaels received a letter from Agere Systems, requesting that we return all of our original case files to them and to cease all work on these cases unless there was a pending uncompleted item associated with a case.
4. On or about January 9, 2002, we returned the original case file for Serial No. 09/781,820 to Agere Systems.
5. It is the policy of Brown & Michaels to docket all due dates for Office Actions received from United States Patent and Trademark Office into a computer docketing system;
6. Brown & Michaels maintains a computer-generated weekly docket sheet containing entries made by their Docketing Personnel of due dates in response to United States Patent and Trademark Office Actions;

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7. Brown & Michaels received a phone call from the Examiner on May 22, 2002 regarding an oral election of a restriction requirement. One of our agents explained that we could not make an election because we had previously been instructed by the client to do no additional work on the case.

8. Brown & Michaels never received an Office Action in connection with the above-identified application (Restriction Requirement) allegedly mailed June 3, 2002 to Brown & Michaels, the fact of which is evidenced by **Exhibits I-II** attached hereto, where:

a. **Exhibit I** is a copy of the computer screen display showing a Reminder List for Serial No. 09/781,820. It was the policy in the firm to record all information regarding Office Actions so that the information would come up on this page for each individual case. Note, there is no entry for an Office Action dated June 3, 2002 on the Reminder List for this case; and

b. **Exhibit II** is a copy of a computer-generated docket sheet of Brown & Michaels for the due dates between July 1, 2002 and July 31, 2002. This docket sheet includes all of the entries for office actions due on July 3, 2002, the due date for replying to the Office Action at issue here. This printout contains entries made by our Docketing Personnel of due dates between July 1, 2002 and July 31, 2002 in response to United States Patent and Trademark Office Actions. It was the policy of Brown & Michaels to docket all due dates for Office Actions received from United States Patent and Trademark Office into the computer docketing system;

9. I reviewed the contents of the computer-generated docket sheet that included the due date of July 3, 2002 (the due date for replying to the Office Action) and did not locate an entry which corresponds to Attorney Docket No. L-122600;

It is declared by the undersigned that all statements made herein of undersigned's own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Title 18,

U.S. Code 1001 and that such willful false statements may jeopardize the validity of this application or any patent issuing thereon.

Date: 1-13-03

Signed:



Michael F. Brown  
Reg. No. 29,619  
Brown & Michaels, P.C.  
400 M&T Bank Building - 118 N. Tioga St.  
Ithaca, NY 14850  
(607) 256-2000 • (607) 256-3628 (fax)

**U.S. Patent Case (Record Locked to allow your updates)**

Record Other Searcher Save Contact Form Help



**Case Management**

Sr Atty:

Pn Atty:

Admst:

**Application Type**

Provisional     Design  
 Utility     Plant

Case No:

Client ID:

Client Case:

App Serial No:

Filing Date:

Status:

Title:

Date Iss/Abn:

Patent No:

Patent Expiration Date:

Expiration Date Adjusted

**Reminder List for this Case**

**Item**

**Who**

**Due Date**

<input type="text"/>	<input type="text"/>	<input type="text"/>
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<input type="text"/>	<input type="text"/>	<input type="text"/>

<input type="text"/>	<input type="text"/>	<input type="checkbox"/>
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There are 0 Reminder Items for this Case

Country:

**First Filed Location**

U.S.     Foreign Country:

Date:

Set #:

7/30/02 TMR

InternalCaseID	InternalCaseName	CaseNumber	Intelli	Country	DateMailed	DateReceived	DateDue	DateSent	LastDateToFile
VPH-1	TVPH-1	VPH-1	T	USA	1/4/2002	1/8/2002	7/5/2002	7/5/2002	7/5/2002
PMI-10A-PCT	XPMI-10A-PCT	PMI-10A-PCT	X	PCT	1/8/2002		7/31/2002	5/17/2002	
FIP-656F-T18	TFIP-656F-T18	FIP-656F-T18	T	USA	1/11/2002		1/16/2002	7/11/2002	1/28/2002
FIP-656F-T20	TFIP-656F-T20	FIP-656F-T20	T	USA	1/11/2002		1/16/2002	7/11/2002	2/26/2002
FIP-656F-T21	TFIP-656F-T21	FIP-656F-T21	T	USA	1/11/2002		1/16/2002	7/11/2002	2/26/2002
FIP-656F-T19	TFIP-656F-T19	FIP-656F-T19	T	USA	1/11/2002		1/17/2002	7/11/2002	1/28/2002
LOK-2	TLOK-2	LOK-2	T	USA	1/17/2002		1/22/2002	7/17/2002	2/28/2002
BVR-1	TBVR-1	BVR-1	T	USA	1/18/2002		1/22/2002	7/18/2002	3/7/2002
LOS-1	TLOS-1	LOS-1	T	USA	1/24/2002		1/28/2002	7/24/2002	6/3/2002
PAS-4	TPAS-4	PAS-4	T	USA	1/15/2002		1/17/2002	7/15/2002	7/15/2002
KNX-5DV4	PKNX-5DV4	KNX-5DV4	P	USA	4/1/2002		4/4/2002	7/1/2002	5/30/2002
KNX-5DV1	PKNX-5DV1	KNX-5DV1	P	USA	4/1/2002		4/4/2002	7/1/2002	5/30/2002
FRR-5	PFRRJ-2	FRJ-2	P	USA	4/9/2002		4/12/2002	7/9/2002	7/9/2002
5DV2	PKNX-5DV2	KNX-5DV2	P	USA	4/10/2002		4/15/2002	7/10/2002	5/30/2002
MRE-5	PMRE-5	MRE-5	P	USA	4/11/2002		4/15/2002	7/11/2002	5/14/2002
GRW-6-CIP	PGRW-6-CIP	GRW-6-CIP	P	USA	4/18/2002		4/22/2002	7/18/2002	5/8/2002
BW-DKT00081	PBW-DKT0008	BW-DKT0081	P	USA	4/3/2002		4/26/2002	7/13/2002	6/26/2002
BW-DKT01001	PBW-DKT0100	BW-DKT0101	P	USA	4/2/2002		4/26/2002	7/12/2002	6/25/2002
BW-DKT00152	PBW-DKT0015	BW-DKT00152	P	USA	5/16/2002		7/10/2002		5/28/2002
OPT-23	POPT-23	OPT-23	P	USA	5/23/2002		5/28/2002	7/28/2002	5/31/2002
CRF-2322-CHI	ECRF-2322-C	CRF-2322-CHI	E	CHINA	5/20/2002		7/21/2002		6/26/2002
KNX-9-KOR	EKNX-9-KOR	KNX-9-KOR	E	KOREA	5/10/2002		7/10/2002		7/3/2002
CIG-1-PCT	XCG-1-PCT	CIG-1-PCT	X	PCT	6/12/2002		6/14/2002	7/12/2002	7/12/2002
KUP-D01-35	PKUP-D01-35	KUP-D01-35	P	USA	6/15/2002		6/20/2002	7/15/2002	7/8/2002
HCD-301-PCT	XHCD-301-PC	HCD-301-PCT	X	PCT	6/19/2002		6/21/2002	7/19/2002	7/19/2002
DUN-10A	PDUN-10A	DUN-10A	P	USA	4/30/2002		7/30/2002	7/12/2002	